

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 18-0119.01 Richard Sweetman x4333

SENATE BILL 18-014

SENATE SPONSORSHIP

Cooke and Fields,

HOUSE SPONSORSHIP

Wist and Herod,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING REQUIRING THE DEPARTMENT OF CORRECTIONS TO**
102 **DISCLOSE THE LOCATION OF INMATES WHO ARE RELOCATED TO**
103 **FACILITIES OUTSIDE OF THE STATE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill states that if the department of corrections (department) relocates an inmate for incarceration or contracts with another state for the incarceration of an inmate in a penal institution in another state, then not later than 48 hours after such relocation, the department shall notify the prosecuting attorney and any registered victim of crimes for which the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
January 25, 2018

inmate is serving his or her sentence of the name and location of the penal institution where the inmate is to be housed.

This disclosure requirement does not apply if:

- ! The inmate is a witness and the executive director of the department (executive director) determines that disclosing the inmate's location would pose a risk to the personal safety of the inmate, corrections staff, other inmates, or facilities;
- ! The prosecuting attorney requests in writing that the department not disclose the location of the penal institution where the inmate is located;
- ! The registered victim is currently incarcerated; or
- ! The inmate has been employed by the department or as a law enforcement officer and the executive director determines that disclosing the inmate's location poses a risk to the personal safety of the inmate, corrections staff, other inmates, or facilities.

If the department relocates an inmate and the executive director determines that any of these factors applies, then not later than 48 hours after such relocation, the department shall notify the prosecuting attorney:

- ! That the inmate has been relocated; and
- ! Which of the factors the executive director has determined applies.

If the prosecuting attorney agrees with the executive director's determination that a factor applies, then the prosecuting attorney shall confirm the executive director's determination in writing, the department shall retain such written confirmation, and the department shall notify any registered victim of one or more crimes for which the inmate is serving his or her sentence that:

- ! The inmate has been relocated; and
- ! The department is unable to disclose the inmate's location because one of the factors applies.

If the prosecuting attorney disagrees with the executive director's determination that a factor applies, then the department shall disclose the inmate's location to any registered victims.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) The "Interstate Corrections Compact", part 16 of article 60 of
5 article 24, was adopted and ratified in 1963 and is a critical management

1 tool for the department of corrections; and

2 (b) In rare cases, the department may place offenders in
3 out-of-state penal institutions through the interstate corrections compact
4 to address safety and security concerns for inmates, corrections staff, or
5 facilities.

6 (2) The general assembly further finds that:

7 (a) Existing law demonstrates the policy of the general assembly
8 to empower crime victims who wish to be informed of changes in the
9 custody status of offenders who have harmed them or their loved ones,
10 including changes in such offenders' locations;

11 (b) Many crime victims wish to remain informed of the locations
12 of offenders who have harmed them or their loved ones; and

13 (c) The general assembly must balance its policy regarding crime
14 victims against safety and security concerns for inmates, corrections staff,
15 and facilities.

16 (3) Now, then, the general assembly declares that crime victims
17 have a right to be informed of the location of an inmate who has harmed
18 them or their loved ones and been placed in an out-of-state penal
19 institution through the interstate corrections compact; except that, under
20 certain circumstances, including where the disclosure of such information
21 could undermine the safety or security of inmates, corrections staff, or
22 facilities, such information shall not be disclosed.

23 **SECTION 2.** In Colorado Revised Statutes, **add** 17-42-104 as
24 follows:

25 **17-42-104. Inmates incarcerated in other states - notifications**
26 **to victims required - exceptions - definitions.** (1) IF THE DEPARTMENT
27 DETERMINES THAT AN INMATE IS ELIGIBLE FOR RELOCATION TO A PENAL

1 INSTITUTION IN ANOTHER STATE PURSUANT TO THE "INTERSTATE
2 CORRECTIONS COMPACT", PART 16 OF ARTICLE 60 OF ARTICLE 24, THEN
3 NOT LATER THAN TWENTY-FOUR HOURS AFTER SUCH DETERMINATION, THE
4 DEPARTMENT SHALL NOTIFY THE PROSECUTING ATTORNEY AND ANY
5 REGISTERED VICTIM OF ONE OR MORE CRIMES FOR WHICH THE INMATE IS
6 SERVING HIS OR HER SENTENCE THAT:

7 (a) SUCH A DETERMINATION HAS BEEN MADE; AND

8 (b) IF THE INMATE IS RELOCATED, THE DEPARTMENT, PURSUANT TO
9 SUBSECTION (2) OF THIS SECTION, MAY BE REQUIRED TO NOTIFY THE
10 PROSECUTING ATTORNEY AND ANY REGISTERED VICTIM OF ONE OR MORE
11 CRIMES FOR WHICH THE INMATE IS SERVING HIS OR HER SENTENCE OF THE
12 NAME AND LOCATION OF THE PENAL INSTITUTION WHERE THE INMATE IS
13 TO BE HOUSED FOR ANY PERIOD OF TIME.

14 (2) IF THE DEPARTMENT RELOCATES AN INMATE FOR
15 INCARCERATION OR CONTRACTS WITH ANOTHER STATE FOR THE
16 INCARCERATION OF AN INMATE IN A PENAL INSTITUTION IN ANOTHER
17 STATE, THEN NOT LATER THAN FORTY-EIGHT HOURS AFTER SUCH
18 RELOCATION, THE DEPARTMENT SHALL NOTIFY THE PROSECUTING
19 ATTORNEY AND ANY REGISTERED VICTIM OF ONE OR MORE CRIMES FOR
20 WHICH THE INMATE IS SERVING HIS OR HER SENTENCE OF THE NAME AND
21 LOCATION OF THE PENAL INSTITUTION WHERE THE INMATE IS TO BE
22 HOUSED FOR ANY PERIOD OF TIME.

23 (3) SUBSECTION (2) OF THIS SECTION DOES NOT APPLY IF ANY OF
24 THE FOLLOWING FACTORS APPLY AND THE PROSECUTING ATTORNEY
25 CONFIRMS SUCH FACT IN WRITING AS DESCRIBED IN SUBSECTION (4)(b) OF
26 THIS SECTION:

27 (a) THE INMATE IS A WITNESS AND THE EXECUTIVE DIRECTOR

1 DETERMINES THAT DISCLOSING THE LOCATION OF THE INMATE WOULD
2 POSE A RISK TO THE PERSONAL SAFETY OF THE INMATE, CORRECTIONS
3 STAFF, OTHER INMATES, OR FACILITIES;

4 (b) THE PROSECUTING ATTORNEY REQUESTS IN WRITING THAT THE
5 DEPARTMENT NOT DISCLOSE THE LOCATION OF THE PENAL INSTITUTION
6 WHERE THE INMATE IS LOCATED;

7 (c) THE REGISTERED VICTIM IS CURRENTLY INCARCERATED; OR

8 (d) THE INMATE HAS BEEN EMPLOYED BY THE DEPARTMENT OR AS
9 A LAW ENFORCEMENT OFFICER AND THE EXECUTIVE DIRECTOR
10 DETERMINES THAT DISCLOSING THE LOCATION OF THE INMATE POSES A
11 RISK TO THE PERSONAL SAFETY OF THE INMATE, CORRECTIONS STAFF,
12 OTHER INMATES, OR FACILITIES.

13 (4) (a) IF THE DEPARTMENT RELOCATES AN INMATE AND THE
14 EXECUTIVE DIRECTOR DETERMINES THAT ANY FACTOR DESCRIBED IN
15 SUBSECTION (3) OF THIS SECTION APPLIES, THEN NOT LATER THAN
16 FORTY-EIGHT HOURS AFTER SUCH RELOCATION, THE DEPARTMENT SHALL
17 NOTIFY THE PROSECUTING ATTORNEY:

18 (I) THAT THE INMATE HAS BEEN RELOCATED; AND

19 (II) WHICH OF THE FACTORS DESCRIBED IN SUBSECTION (3) OF THIS
20 SECTION THE EXECUTIVE DIRECTOR HAS DETERMINED APPLIES.

21 (b) IF THE PROSECUTING ATTORNEY AGREES WITH THE EXECUTIVE
22 DIRECTOR'S DETERMINATION THAT A FACTOR DESCRIBED IN SUBSECTION
23 (3) OF THIS SECTION APPLIES, THEN:

24 (I) THE PROSECUTING ATTORNEY SHALL CONFIRM THE EXECUTIVE
25 DIRECTOR'S DETERMINATION IN WRITING;

26 (II) THE DEPARTMENT SHALL RETAIN SUCH WRITTEN
27 CONFIRMATION; AND

1 (III) THE DEPARTMENT SHALL NOTIFY ANY REGISTERED VICTIM OF
2 ONE OR MORE CRIMES FOR WHICH THE INMATE IS SERVING HIS OR HER
3 SENTENCE THAT THE INMATE HAS BEEN RELOCATED AND THE
4 DEPARTMENT IS UNABLE TO DISCLOSE THE INMATE'S LOCATION BECAUSE
5 ONE OF THE FACTORS DESCRIBED IN SUBSECTION (3) OF THIS SECTION
6 APPLIES.

7 (c) (I) IF THE PROSECUTING ATTORNEY DISAGREES WITH THE
8 EXECUTIVE DIRECTOR'S DETERMINATION THAT A FACTOR APPLIES, THEN
9 THE EXECUTIVE DIRECTOR HAS THIRTY DAYS TO REVIEW THE NOTICE OF
10 DISAGREEMENT. IF, AFTER SUCH REVIEW, THE EXECUTIVE DIRECTOR STILL
11 DETERMINES THAT A FACTOR APPLIES AND THE INMATE'S LOCATION
12 SHOULD NOT BE DISCLOSED, THE DEPARTMENT SHALL NOTIFY THE
13 PROSECUTOR OF SUCH FACT AND NOTIFY ANY REGISTERED VICTIMS THAT
14 THE PROSECUTOR DISAGREES WITH THE EXECUTIVE DIRECTOR'S
15 DETERMINATION.

16 (II) EITHER THE PROSECUTOR OR ANY REGISTERED VICTIM OF THE
17 INMATE MAY BRING AN ACTION IN THE DISTRICT COURT FROM WHICH THE
18 INMATE'S SENTENCE WAS ISSUED FOR THE COURT TO DETERMINE WHETHER
19 A SUBSTANTIAL BASIS EXISTED AND STILL EXISTS TO SUPPORT THE
20 EXECUTIVE DIRECTOR'S DETERMINATION. IF THE DISTRICT COURT FINDS
21 THAT NO SUBSTANTIAL BASIS EXISTS, THE EXECUTIVE DIRECTOR SHALL
22 DISCLOSE THE INMATE'S LOCATION TO ANY REGISTERED VICTIMS, AS
23 DESCRIBED IN SUBSECTION (2) OF THIS SECTION. ANY HEARING
24 CONDUCTED FOR THE PURPOSE OF THIS SUBSECTION (4)(c)(II) MUST BE
25 HELD IN CAMERA.

26 (III) IN AN ACTION BROUGHT PURSUANT TO THIS SUBSECTION
27 (4)(c), THE PARTIES ARE ENTITLED TO FULL DISCOVERY UNDER THE

1 COLORADO RULES OF CIVIL PROCEDURE THAT ARE APPLICABLE TO
2 ACTIONS FOR DECLARATORY JUDGMENT; EXCEPT THAT THE EXECUTIVE
3 DIRECTOR IS NOT REQUIRED TO DISCLOSE THE LOCATION OF THE INMATE
4 PENDING THE RESOLUTION OF THE CIVIL ACTION AND ANY APPEALS. ANY
5 APPEAL OF A JUDGMENT FROM AN ACTION BROUGHT UNDER THIS
6 SUBSECTION (4)(c) MUST BE MADE PURSUANT TO THE RULES OF APPELLATE
7 PROCEDURE.

8 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
9 REQUIRES:

10 (a) "LAW ENFORCEMENT OFFICER" MEANS A PEACE OFFICER
11 DESCRIBED IN ARTICLE 2.5 OF TITLE 16.

12 (b) "PROSECUTING ATTORNEY" MEANS THE OFFICE OF THE
13 DISTRICT ATTORNEY OR OTHER PROSECUTOR WHO PROSECUTED AN
14 OFFENDER WHO WAS SUBSEQUENTLY CONVICTED AND INCARCERATED.

15 (c) "REGISTERED VICTIM" MEANS A VICTIM WHO HAS REGISTERED
16 WITH THE VICTIMS SERVICES UNIT WITHIN THE DEPARTMENT.

17 (d) "VICTIM" HAS THE SAME MEANING AS SET FORTH IN SECTION
18 24-4.1-302 (5).

19 (e) "WITNESS" HAS THE SAME MEANING AS SET FORTH IN SECTION
20 24-4.1-302 (7).

21 **SECTION 3. Applicability.** This act applies to offenders serving
22 a sentence on or after the effective date of this act.

23 **SECTION 4. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.